

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 00-2352

Cornelius Moore,

Appellant,

v.

P.A. Bruce Wagner,

Appellee.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: November 28, 2000

Filed: December 4, 2000

Before RICHARD S. ARNOLD, HANSEN, and BYE, Circuit Judges.

PER CURIAM.

Nebraska prisoner Cornelius Moore appeals from the district court's¹ denial of his motion for relief from judgment under Federal Rule of Civil Procedure 60(b). We affirm.

¹The Honorable Lyle E. Strom, United States District Judge for the District of Nebraska.

Moore filed a 42 U.S.C. § 1983 complaint against various jail staff, prison staff, and others, asserting violations of his constitutional rights. Prior to service, the magistrate judge² issued a report recommending dismissal of the complaint under 28 U.S.C. § 1915A. On June 4, 1999, the district court adopted the report and dismissed Moore's complaint without prejudice; the court's order was entered on June 7, 1999. In February 2000, Moore moved for relief from judgment under Rule 60(b), asserting that the magistrate judge abused her discretion, failed to construe liberally his complaint, erred in concluding that he failed to state a claim under notice pleading, and erred in requiring him to file an amended complaint. The district court denied Moore's motion, finding that the complaint was properly dismissed and that Moore had not shown circumstances justifying relief from judgment under Rule 60(b).

We review the denial of a Rule 60(b) motion for abuse of discretion. See Sanders v. Clemco Indus., 862 F.2d 161, 169 (8th Cir. 1988). Because Moore's Rule 60(b) motion asserted only errors of law that could have been raised on appeal from the underlying judgment, and because the motion was filed more than thirty days from the date judgment was entered, we cannot say that the district court abused its discretion in denying Rule 60(b) relief. See id.; Fox v. Brewer, 620 F.2d 177, 180 (8th Cir. 1980) (Rule 60(b) motion is not substitute for appeal).

Accordingly, we affirm.

²The Honorable Kathleen A. Jaudzemis, United States Magistrate Judge for the District of Nebraska.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.